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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Detention of international civil servants and their families

Updated report of the Secretary-General prepared pursuant to Commission on Human Rights resolution 1993/39

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INTRODUCTION

1. In 1987, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities adopted resolution 1987/21 by which it expressed deep concern that some 50 staff members were detained, imprisoned, reported missing - some having even died in detention - or held in a country against their will. Conscious that the rights of United Nations staff members should be given particular attention in view of the responsibility entrusted to the Organization in the area of human rights, the Sub-Commission requested the Secretary-General to submit it, at its fortieth session, a detailed report on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, in order to enable it to consider those cases in the lights of the international instruments relating to human rights.

2. At its forty-fifth session, the Commission on Human Rights adopted resolution 1989/28 on this subject. In that resolution the Commission took note of the report (E/CN.4/1989/19) by the Secretary-General as an updated version of the report on detention of staff members of the United Nations and its specialized agencies presented to the Sub-Commission (E/CN.4/1988/17).

3. Since then the Commission, after consideration of various reports submitted by the Secretary-General, requested him to continue his efforts to ensure that the human rights and privileges and immunities of United Nations staff members and experts and their families were fully respected and to submit to the Commission an updated report on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, including those cases which had been successfully referred to in paragraphs 3 and 4 of resolution 1989/28. 1/

4. At its forty-eighth session the Commission adopted resolution 1992/26 in which it, inter alia, requested the Secretary-General to continue his efforts to ensure that the human rights, privileges and immunities of United Nations staff members, experts and their families are fully respected and to seek redress and compensation for the damage caused to those whose human rights, privileges and immunities had been violated, as well as their full integration. It also requested the Secretary-General once again to submit to the Commission at its forty-ninth session an updated version of the report.

5. At its forty-ninth session, after consideration of the report contained in document E/CN.4/1993/22, the Commission adopted resolution 1993/39 in which it requested the Secretary-General once again to continue his efforts in that regard and in particular requested the existing human rights mechanisms, including the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, to examine as appropriate the cases involving the human rights of staff members of the United Nations system and their families, as well as experts, special rapporteurs and consultants,

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1/ The report submitted by the Secretary-General is contained in documents E/CN.4/Sub.2/1988/17, E/CN.4/1989/19, E/CN.4/1990/14, E/CN.4/1991/18 and E/CN.4/1993/22.

and to transmit the relevant part of their reports to the Secretary-General for inclusion in his next report to the Commission on Human Rights. It also requested the Secretary-General to submit to the Commission at its fiftieth session an updated version of the report. The present report is submitted pursuant to this request.

6. For its part, the Sub-Commission considered at its forty-first session the preliminary report (E/CN.4/Sub.2/1989/28), entitled "Protection of the human rights of United Nations staff members, experts and their families" submitted by Mrs. Mary C. Bautista pursuant to its resolution 1988/9. The Sub-Commission adopted resolution 1989/30 in which it invited Mrs. Bautista to continue her study and to submit a report to the Sub-Commission at its forty-second session, with proposals for practical measures to improve the present system and ensure that staff members of the United Nations and the specialized agencies were protected.

7. Mrs. Bautista presented her updated report (E/CN.4/1990/30) to the Sub-Commission at its forty-second session. In its introduction the report contained an analytical survey of the problems in its various dimensions, including the legal rights of the United Nations in cases of arrest or detention of staff members.

8. Pursuant to Sub-Commission resolution 1990/20, Mrs. Bautista requested the Governments of Afghanistan, Chad, Ethiopia, Israel, Jordan, Nepal, Somalia and the Syrian Arab Republic to provide her with any information or comments they might have with regard to staff members who, to her knowledge, were being held in detention in those countries. She also requested the United Nations Security Coordinator and the heads of specialized agencies and other intergovernmental organizations to provide her with information on the violations of human rights of staff members and their families, as well as on resolved and pending cases of violations of human rights of those persons, on steps which had been taken to assist them and possible suggestions on how to avoid the recurrence of such incidents. Information was also requested on the matters raised in paragraphs 3 and 4 of Sub-Commission resolution 1989/30.

9. In the same resolution Mrs. Bautista was requested to submit a final version of her report to the Sub-Commission at its forty-third session. However, in view of the fact that only a few additional replies had been received, the Special Rapporteur requested the Sub-Commission's authorization to defer her final report (E/CN.4/Sub.2/1991/23, para. 12).

10. In its resolution 1991/17, the Sub-Commission noted with regret the limited number of replies received from Governments and organizations of the United Nations system and requested the Secretary-General to redouble his efforts to ensure that the human rights and privileges and immunities of the personnel of the United Nations system and their families, as well as experts and consultants, were fully respected. The Sub-Commission invited the Special Rapporteur to submit a final report at its forty-fourth session, including practical recommendations for measures to improve, on a long-term basis, the protection of personnel of the United Nations system and their families, as well as experts and consultants.

11. In accordance with paragraph 6 of Sub-Commission resolution 1991/17, the Special Rapporteur once again addressed, on 16 December 1991, notes verbales to Governments and letters to the Secretary-General of the United Nations and to the heads of specialized agencies requesting additional information. Replies were received from the Governments of Chile, China, Israel, Pakistan, Sudan and the Syrian Arab Republic. The United Nations Security Coordinator also replied. In addition, replies were received from the United Nations Development Programme, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the Economic Commission for Latin America and the Caribbean, the United Nations Industrial Development Organization and the World Meteorological Organization.

12. The Special Rapporteur submitted her final report to the forty-fourth session of the Sub-Commission in August 1992 (E/CN.4/Sub.2/1992/19), incorporating a set of recommendations, which were reproduced for guidance of the Commission at its forty-ninth session (E/CN.4/1993/22, section IV).

13. The Special Rapporteur pointed out that the submission of a final report by no means implied that an adequate solution had been found to the problem in question. She noted that ad hoc measures had been taken by the administrations of the various organizations in the United Nations system to rehabilitate and reintegrate some staff members whose rights had been violated. In addition, she noted that following the landmark decision of the United Nations Administrative Tribunal, No. 482 of 25 May 1990 on secondment, confidence in the principle of the independence of international civil servants had gradually been restored and Articles 100 and 105 of the Charter reaffirmed.

14. The Sub-Commission subsequently adopted resolution 1992/24 in which it recommended to the Commission on Human Rights that it request the existing human rights machinery, including the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearance, the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, to examine the cases involving the human rights of staff members of the United Nations system and their families, as well as experts, special rapporteurs and consultants, and to transmit the relevant parts of their respective reports to the Secretary-General for inclusion in his report to the Commission on Human Rights under item 10 of its agenda.

15. The Sub-Commission in addition requested the Secretary-General to present a report annually to the Third Committee of the General Assembly on the implementation of the protective measures and on redress for the possible harm caused.

16. The General Assembly, in its resolution 45/240 of 21 December 1990, took note with grave concern of the report of the Secretary-General (A/C.5/45/10 and Corr.1) and of the developments indicated therein, in particular the significant number of new cases of arrest and detention and those regarding previously reported cases under that category. In the same resolution, the General Assembly deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely

affected, as well as the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions. The Assembly urged the Secretary-General to give priority to the reporting and prompt follow-up of cases of arrest, detention and other possible matters relating to the security and proper functioning of officials of the United Nations and the specialized agencies and related organizations.

17. Subsequently, the Secretary-General submitted to the General Assembly at its forty-sixth session his report "Personnel questions: respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations" (A/C.5/46/4). However, pursuant to General Assembly resolution 46/220 on the rationalization of work of the Fifth Committee, the Assembly decided to adopt the biennial approach for matters related to personnel questions and no resolution was adopted at the forty-sixth session.

18. The report of the Secretary-General to the General Assembly at its forty-seventh session (A/C.5/47/14) was therefore submitted pursuant to the same Assembly resolution, 45/240 of 21 December 1990. The Assembly also had before it a note by the Secretary-General containing the views of the staff representatives of the United Nations Secretariat (A/C.5/47/20). The Assembly adopted resolution 47/28 on the issue in which it requested the Secretary-General to take all necessary measures to ensure the safety of United Nations personnel, as well as those engaged in peace-keeping and humanitarian operations. It reminded host countries of their responsibility for the safety of peace-keeping and all United Nations personnel on their territory. The Assembly also requested the Secretary-General to continue to submit, on behalf of the Administration Committee on Coordination, reports concerning respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations.

19. In the light of the concern expressed at the developments referred to in the report of the Secretary-General, the General Assembly decided at its resumed forty-seventh session that, despite its previous resolution providing that personnel questions should be considered on a biennial basis (46/220 of 20 December 1991), the Secretary-General should be requested to submit to its forty-eighth session updated information on the situation of United Nations staff members with special regard to violations of privileges and immunities, taking into account its resolutions 45/240 of 21 December 1990 and 47/28 of 25 November 1992 (decision 47/457 C of 8 April 1993). This information, in a note submitted by the Secretary-General, is contained in document A/C.5/48/5.

20. In the light of the above-mentioned developments and in compliance with Commission on Human Rights resolution 1993/39, the present report describes recent developments related to the situation of staff members of various United Nations secretariats in chapter I. Chapter II describes cases received by the Secretary-General pursuant to paragraph 9 of the resolution and those cases recently clarified. Chapter III focuses on the action and proposals to further respect for the human rights of international civil servants, including those serving in peace-keeping missions.

I. RECENT DEVELOPMENTS

A. Action by the Security Council

21. The protection of United Nations staff members over the last year has gained a different dimension with the increase of peace-keeping operations mandated by the Security Council. In the context of the Secretary-General's Agenda for Peace, the President of the Security Council made a statement (S/25493) in which he, inter alia, recalled that it had been necessary on a number of occasions to condemn incidents directed against United Nations forces and personnel. The Council considered that attacks and other acts of violence, whether actual or threatened, including obstruction of detention of persons, against United Nations forces and personnel were wholly unacceptable and might require the Council to take further measures to ensure the safety and security of such forces and personnel.

22. Furthermore, the Security Council reiterated its demand that States and other parties to various conflicts take all possible steps to ensure the safety and security of United Nations forces and personnel. It demanded that States act promptly and effectively to deter, prosecute and punish all those responsible for attacks and other acts of violence.

23. The Security Council requested the Secretary-General to report as soon as possible on the existing arrangements for the protection of United Nations forces and personnel and the adequacy thereof, taking into account, inter alia, relevant multilateral instruments and status of forces agreements concluded between the United Nations and host countries.

B. Action by the Secretary-General

24. The Secretary-General submitted a report on the security of United Nations operations within the purview of a comprehensive review of the whole question of peace-keeping operations in all their aspects (A/48/349-S/26358). The Secretary-General stated, inter alia, that the main new development concerned the kind of conditions in which United Nations personnel were expected to operate and the level of risk considered acceptable. In fulfilment of the responsibilities entrusted to them by Member States, the personnel of the organizations of the United Nations system had increasingly been required to perform their functions in extremely hazardous conditions where decisions regarding their safety assumed an immediacy not normally encountered in the past. This was particularly true in areas where government authority was not adequately exercised or was lacking altogether. Whereas in the past personnel were assured protection by virtue of their association with the work of the United Nations, this was no longer the case. On the contrary, personnel were more and more often at risk because of such association. In addition, actions by the United Nations in one part of the globe could generate threats to United Nations personnel in another. As a result, casualties had mounted. In 1992, one staff member on average was killed every month; in 1993 the rate has so far been approximately one every two weeks. To date it had not been possible to identify and hold accountable those responsible for those deaths. The Organization had no statistics of

casualties among the personnel of non-governmental organizations, but they, too, were reported to have increased. Military personnel suffered 51 fatal casualties in 1992 and 97 in the first half of 1993.

25. In his note to the General Assembly (A/C.5/48/5) the Secretary-General commented in this connection that as a result of these developments, the acceptable safety threshold had been pushed to a level inconceivable in the past. Throughout the reporting period staff members had been attacked, injured, kidnapped, abused and harassed in the performance of their duties. In his report (A/48/349), the Secretary-General furthermore stated: "Status-of-forces agreements provide for the necessary privileges and immunities, rights and facilities of United Nations operations and their civilian and military personnel. It is relevant to note that, under such agreements, the Government of a country hosting a peace-keeping operation undertakes to respect the exclusively international nature of that operation and to ensure the prosecution of persons subject to its criminal jurisdiction who are accused of acts in relation to the United Nations peace-keeping operation and its personnel, which, if committed in relation to the forces of the Government, would have rendered such acts liable to prosecution." (para. 15).

26. A new feature is the use by the Security Council of its enforcement powers under Chapter VII of the Charter of the United Nations. This has led to the establishment of United Nations operations which are not based on consent and cooperation and may face outright opposition. A case in point is the situation in Somalia. In the wake of the attack committed against United Nations Operations in Somalia (UNOSOM II) forces on 5 June 1993, in which 25 Pakistani soldiers were killed, 100 missing and 57 wounded (54 nationals of Pakistan and 3 of the United States), the Security Council adopted on 6 June 1993 resolution 837 (1993).

27. Subsequently, the Security Council, on 29 September 1993, marked an important development in adopting resolution 868 (1993) in which it determined that, when considering the establishment of future United Nations operations authorized by the Council, the Council would require, inter alia, (a) that the host country take all appropriate steps to ensure the security and safety of the operation and its personnel; (b) that the security and safety arrangements undertaken by the host country extend to all persons engaged in the United Nations operation; (c) that an agreement on the status of the operation, and all its personnel, in the host country be negotiated expeditiously and should come into force as near as possible to the outset of the operations. On 24 November 1993 the Secretary-General appointed a Commission of Inquiry to investigate the above-mentioned armed attacks. This action was authorized by Security Council resolution 885 (1993) of 16 November to further implement its earlier resolutions on the matter.

C. Note by the Secretary-General to the General Assembly

28. The note by the Secretary-General (A/C.5/48/5) covered the period July 1992 to 30 June 1993. He voiced particular concern at the fact that since the beginning of 1992, 28 staff members belonging to different organizations had lost their lives. Eleven cases involving loss of life had been brought to the attention of the General Assembly at its

forty-seventh session (A/C.5/47/14). As of the date of issuance of his report the following 17 United Nations staff members had been killed. Mr. Sean Devereux (UNICEF), national of Ireland, killed in Somalia on 2 January 1993; Mr. Anthony Bullard (UNCHS), national of the United Kingdom, killed in Afghanistan on 1 February 1993; Mr. Abdul Hadi (UNHCR), national of Afghanistan, killed in Afghanistan on 1 February 1993; Mr. Zia Ul-Haq (UNCHS), national of Afghanistan, killed in Afghanistan on 1 February 1993; Mr. Awad Ali Suradi, (UNRWA), Palestinian, killed in the occupied Gaza Strip on 23 February 1993; Mr. Pedro Shivinda (WFP), national of Angola, killed in Angola on 24 February 1993; Mr. Nestrendo (WFP), national of Angola, killed in Angola on 24 February 1993; Dr. Z.S. Rao (FAO), national of India, killed in India on 12 March 1993; Mr. Mohamed Rouf (UNTAC), national of Bangladesh, killed in Cambodia on 29 March 1993; Mr. Sophorn Choun (UNTAC), national of Cambodia, killed in Cambodia on 3 April 1993; Mr. Sok Phiep Lay (UNTAC), national of Cambodia, killed in Cambodia on 8 April 1993; Mr. Atsuhito Nakata (United Nations Volunteer), national of Japan, killed in Cambodia on 8 April 1993; Mr. Khhough Ngin (UNTAC), national of Cambodia, killed in Cambodia on 7 April 1993; Mr. Yousif Al-Gharib (UNRWA), Palestinian, killed in the occupied Gaza Strip on 18 March 1993; Mr. Silva Cnicambi (WFP), national of Angola, killed in Angola on 11 April 1993; Mr. Phim Shoka (UNTAC), national of Cambodia, killed in Cambodia on 12 May 1993; Mr. Boris Zerazic (UNHCR), national of Bosnia, killed in Bosnia on 15 August 1993.

29. The report of the Secretary-General further stated that 16 UNRWA staff members, 11 from the Gaza Strip and 5 from the West Bank, were among the more than 400 Palestinians deported to Lebanon in December 1992. This was the largest number of UNRWA staff members deported from the occupied territory in a single year since the Israeli occupation began in 1967. None of the UNRWA staff was among the small number of deportees who returned with Israeli permission in the subsequent months. UNRWA's protests to the Israeli authorities on these deportations were to no avail. (Detailed information on this subject may be obtained from the report of the Commissioner-General of UNRWA to the General Assembly at its forty-eighth session (A/48/13).)

1. United Nations Relief and Works Agency for Palestine Refugees in the Near East

30. During the reporting period there was a substantial increase, as compared with the previous year, in the number of staff members in the occupied territory arrested and held in detention without trial. The number of staff arrested and detained in Jordan and Lebanon decreased, while the number in the Syrian Arab Republic increased from zero to three. The total number of staff so detained during the reporting period was 70. Of these, 40 were arrested and released without charge or trial, and 2 were charged, tried and sentenced. The remaining 28 were still in detention on 30 June 1993, as follows:

Occupied Gaza Strip	23
Occupied West Bank	3
Syrian Arab Republic	2
	28

31. In no case had UNRWA received adequate and timely information on the reasons for the arrest and detention of staff members despite requests to the authorities. UNRWA has had access to 11 staff members from the West Bank and 19 from the Gaza Strip detained in prisons and detention centres in the occupied territory and Israel. The treatment of staff members in detention in the occupied territory and Israel was a major cause of concern to the Agency, with staff members upon their release complaining of ill-treatment, including beatings and psychological abuse. Despite efforts on the part of the Agency, it was unable to visit staff in detention elsewhere.

32. Two UNRWA staff members had been killed by members of the Israeli security forces during the period under review. On 23 February 1993, a 28-year-old male nurse was shot in the back of the head while giving assistance to a wounded person in Rafah. On 18 March 1993, a 47-year-old male UNRWA teacher was shot and killed while standing outside a wake-house in Rafah. These were the first killings of Agency staff members by the security forces since the outbreak of the intifadah in December 1987.

2. United Nations High Commissioner for Refugees

33. During the period under review UNHCR continued to operate in some areas of the world where understanding of, and respect for, its mandate and the privileges and immunities of its officials had made it extremely difficult, and sometimes very dangerous, to carry out the humanitarian tasks assigned to it.

34. The most serious incident involving UNHCR staff occurred on 1 February 1993 when Mr. R. Wanrooy was en route from Peshawar to Jalalabad by road. In addition to the locally recruited driver, Mr. Abdel Hadi, and Mr. Wanrooy, present in the UNHCR vehicle was Mr. T. Bullard of Habitat. Shortly after crossing into Afghanistan, the vehicle was apparently stopped by an ambush party which immediately opened fire, killing Mr. Bullard and seriously wounding Mr. Hadi, who died in hospital in Jalalabad some hours later. This ambush and killing were brought to the attention of the local authorities. It is not known what action was taken by them to find and punish the guilty parties and ensure there are no recurrences of such incidents.

35. The privileges and immunities of UNHCR staff in Yugoslavia have been, and continue to be, seriously hampered by prolonged administrative formalities to process visas for UNHCR staff. In Bosnia and Herzegovina, hardly a day passed without reports of incidents in which UNHCR staff were the subjects of attack by both uniformed and "civilian" elements in their areas of operations.

36. There seems no doubt that, given the nature of its operations and the swelling tide of refugee populations, UNHCR will continue to be required to work in areas, and under conditions, where the security and safety of its staff, and respect for their privileges and immunities, will be the subject of serious concern. In such circumstances, UNHCR feels that each incident, involving either the security/safety of the staff or respect for their privileges and immunities, must be fully investigated and vigorous protests made to the authorities in the area and the country's representatives at Headquarters and in Geneva.

3. United Nations Environment Programme

37. There were no arrests or detentions of United Nations officials by governmental authorities in Kenya. There were, however, numerous cases of robberies, many at gunpoint, of vehicles belonging either to the United Nations offices in Nairobi, or to international civil servants. For instance, in the period January to June 1993, there were 22 thefts of motor vehicles, only 3 of which were recovered with several parts stolen. In committing these offences, the robbers threatened to shoot, stole money from the victims, inflicted minor injuries and, in a few cases, stripped them of their clothes. In addition, there was an invasion of the UNHCR office by an armed gang who harassed staff and stole an official vehicle. In each case the Secretariat has addressed official communications to the Government of Kenya. Since the beginning of 1993, the Executive Director has twice written to the Minister for Foreign Affairs and held discussions with him once on the security situation in Kenya. In response the Government has promised to do everything in its power to protect United Nations officials and property in Kenya.

4. United Nations Industrial Development Organization

38. On 25 June 1992, in Vienna, a UNIDO consultant, Mr. Georg Hans Huetter, an Austrian national, was arrested for alleged involvement in the fraudulent conduct of his former employer. Mr. Huetter had the legal status of an Expert on Mission under the Convention on Privileges and Immunities of the United Nations which, in accordance with article 21 of the UNIDO constitution, is applicable to UNIDO. When arrested, Mr. Huetter informed the Austrian authorities of his legal status. The Austrian authorities never officially informed UNIDO of the arrest and detention of Mr. Huetter and it was not until three months later that UNIDO was informed by the lawyer retained by Mr. Huetter. On 28 September 1992 the UNIDO secretariat formally confirmed Mr. Huetter's status to the Austrian Foreign Ministry and objected to his arrest and detention as constituting an infringement of that status. These objections were reiterated in subsequent communications. Mr. Huetter remains in custody. However, on 22 February 1993 the Foreign Ministry of the Republic of Austria replied to the secretariat's objections by stating that it, and other competent authorities, would have taken Mr. Huetter's status as an Expert on Mission with UNIDO into account if that status had been known to them.

5. World Food Programme

39. In January 1993, Mr. M.T. Khalik, WFP National Officer in Kabul was detained by the security forces on the accusation of misusing the United Nations communications system and passing coordinates to opposition troops. Following a strong intervention from the Security Coordinator, Mr. Khalil was released on 30 January 1993.

40. WFP staff in Angola were caught in the crossfire between warring factions with the following results: (a) WFP office facilities in Huambo took a direct rocket hit in early February 1993 and burned to the ground. The remains of three persons were found in the wreckage; (b) In September 1992 a WFP film crew was taken hostage by government troops in Cartara Village, 29 km from

Guilala, Kwanza North province. After protracted negotiations they were rescued by a WFP helicopter; (c) The following WFP staff were killed or reported missing during the period under review: Mr. Pedro Shivinda, acting Base Manager in Huambo; Mr. Nestrendo, flight engineer; Mr. Narcisso Paulo Sinao. An office guard employed on a casual labour basis was killed in Luena; (d) On 26 April 1993 a WFP chartered plane was brought down near Luena, killing one crew member, Mr. Nestrendo, and wounding two others, Mr. Pedro Pascual and the captain, Mr. Andre Orlov.

41. On 28 March 1992, a WFP Food Aid Monitor, Mr. François Darcq, was caught in the middle of fighting in southern Sudan between factions of the SPLA. He was stripped of his clothes and personal belongings and his life was threatened. He managed to escape into the bush and was brought back to Nairobi suffering from severe shock. From 4 to 30 December 1992, two WFP employees Mr. Guenther Kriessl (Food Aid Monitor) and Mr. Fred Sembogo (driver/mechanic), were held captive by an SPLA faction in southern Sudan. After intervention by the United Nations they were released without harm or explanation.

42. On 15 March 1993 the WFP Coordinator for emergency operations relating to assistance for Liberian refugees in Côte d'Ivoire, Mr. Sidile Kelefa (UNV), was kidnapped by armed aggressors, who released him afterwards taking with them the WFP vehicle.

43. WFP staff employed in Somalia are under continuous risk in view of the prevailing security situation in the country.

44. On 30 June 1993 a WFP food convoy hit a mine in Sofala, Mozambique, injuring two persons.

II. RECENT CASES

45. The Special Rapporteur of the Commission on extrajudicial, summary or arbitrary executions on 17 February 1993 addressed a letter to the President of the Republic of Zaire in which he referred to several attacks, towards the end of January 1993, on the residence of Mr. Mikuin Leleil Balanda, President of the Supreme Court of Justice in Zaire and President of the Ad Hoc Working Group on Southern Africa. The attacks were allegedly linked to the judgement of the Supreme Court, under his presidency, in the case "the massacre of the Lubumbashi students", and to a judgement in the case of the "Jehovah's Witnesses", where the Supreme Court took a position on the current constitutional regime in Zaire. The Special Rapporteur expressed his concern for the physical integrity and the life of Mr. Balanda and his family. In early December 1993, Mr. Balanda personally informed the Secretariat that two additional attacks had taken place, on 17 and 24 July 1993.

Recently clarified cases

46. The Administrative Tribunal of the International Labour Organisation, in judgement No. 1232 dated 10 February 1993, rendered judgement in the "Stulz Case". Mr. Stulz, a national of the former German Democratic Republic, entered on duty with UNESCO on 15 January 1975. On 8 March 1980, while on a visit to East Berlin, he was arrested, found guilty and given a three-year

prison sentence by a military tribunal on 20 August 1980 after a secret trial. The East German authorities forced Mr. Stulz to sign a declaration of illness, and he subsequently informed the Director-General of UNESCO of his intention to resign, a resignation the Director-General refused to accept. Mr. Stulz was released on 17 November 1981, but was unable to leave the country until July 1989. On 20 June 1984, he requested early retirement from UNESCO. His request was accepted by the Director-General on 5 July 1985 and made retroactive as of 31 October 1984. After his departure from the former German Democratic Republic, Mr. Stulz recontacted UNESCO and was offered a consultancy contract of six months. On 29 April 1990, he wrote to the Director-General of UNESCO referring, inter alia, to problems concerning his request for early retirement. After an internal administrative procedure the Director-General, on 6 January 1992, refused to annul Mr. Stulz's request for early retirement.

47. On the merits the Administrative Tribunal found that his request for early retirement from UNESCO on 20 June 1984 had been extracted under duress by the East German authorities; consequently, UNESCO should have refused the request. The Tribunal therefore reversed the decision of the Director-General of UNESCO dated 6 January 1992 and reinstated Mr. Stulz as from 1 November 1984 until 22 July 1988, the date of his retirement.

48. Another judgement (No. 1249) of the Administrative Tribunal dealt with the secondment of a national of the former USSR. Mr. Reznikov had worked for UNESCO as a translator/reviser from 1974 to 1980 and in 1980 he was recalled by the former USSR authorities. He worked in Moscow until early 1984, after which he started working for WHO on a temporary contract. In November 1984, he was given a two-year contract which was renewed twice for a period of two years. On 5 June 1990, the Division of Personnel of WHO addressed a request for renewal or termination of the contract of Mr. Reznikov to the Chief of the Language Service. This request was accompanied by a form to be filled out by Mr. Reznikov and his direct supervisor, the Chief of the Russian Translation Section. The renewal of the contract was made conditional upon the approval by the USSR authorities who on 10 August 1990 informed the Chief of Personnel of WHO that Mr. Reznikov should be replaced by another translator when his contract expired on 30 November 1990. On 21 August 1990, the Chief of the Russian Translation section complied with the request by the authorities not to propose renewal. On 30 November 1990, Mr. Reznikov was informed, however, that the Soviet authorities had agreed to extend his secondment for a period of six months. On 27 February 1991, the Chief of Personnel of WHO informed the incumbent that his contract would expire on 31 May 1991 and that if he wished to be reinstated he should request the USSR authorities to revoke his status "on secondment". Mr. Reznikov appealed against this decision but on 2 December 1991, the Director-General of WHO informed him that there had been no violation of the WHO constitution with regard to non-renewal of his contract.

49. On the merits, the Administrative Tribunal held that the Director-General had taken a decision linked to the position of the USSR authorities and had therefore violated the rules which guarantee the independence of international organizations and their employees. The Tribunal therefore reversed the decision of the Director-General dated 2 December 1991 and reinstated the incumbent as of 1 June 1991.

III. ACTION AND PROPOSALS TO FURTHER RESPECT FOR THE HUMAN RIGHTS OF INTERNATIONAL CIVIL SERVANTS, INCLUDING THOSE SERVING IN PEACE-KEEPING MISSIONS

50. The safety of United Nations personnel serving in peace-keeping missions became a paramount issue in the Sixth Committee at the forty-eighth session of the General Assembly. However, some pertinent comments had already been made in this regard in the report of the Special Committee on Peace-keeping Operations (A/48/173). In paragraph 50 of this report reference is made to a variety of measures to enhance the safety and security of peace-keeping personnel, ranging from the improvement of the existing mechanisms to the development of a new international instrument.

51. Although Ukraine presented "draft elements for an international convention on the status and safety of the personnel of the United Nations force and associated civilian personnel" (see annex III), some delegations voiced doubts as to the usefulness of a new international convention. It was pointed out that such a convention might not be sufficient as it only bound those States which ratified it. The point was made that the coverage of such a convention should not include those locally recruited by the United Nations.

52. The Ukrainian delegation explained, however, that a legally binding international instrument could bring together all existing norms of international law, in particular international humanitarian law, that may be applicable to the personnel of the United Nations force and associated civilian personnel, as well as provisions contained in the various status-of-force agreements and other bilateral and multilateral agreements concluded in that regard.

53. The delegation of New Zealand proposed a draft convention on responsibility for attacks on United Nations personnel (A/C.6/48/L.2, annex II). The difference between the two proposals lies, inter alia, in the scope of application. While the Ukrainian proposal in article 1 links the application of the convention to a peace-keeping operation mandated by the Security Council, the proposal by New Zealand is much wider in scope. Article 2 states that the convention shall apply in respect of: (a) persons deployed by the Secretary-General to participate in a United Nations operation, and would include military personnel, police personnel and associated civilian personnel; (b) persons deployed by the Secretary-General or a specialized agency or other organization or programme of the United Nations system to carry out activities in connection with a United Nations operation; (c) persons deployed by any other humanitarian organization or agency to carry out activities relating to a United Nations operation where such organization or agency is operating pursuant to an agreement with the Secretary-General.

54. Other proposals put forward by delegations included more forceful actions to be taken by the Security Council, the provision to personnel of adequate protective gear, the reconfirmation of the existing principles and obligations of host Governments, improved information-gathering capacity of the Organization and the establishment of a unified compensatory system for the death and injury of peace-keeping personnel.

55. The Sixth Committee established a working group to discuss these issues further. Its Chairman, on 15 November 1993, stated that there was no disagreement that a new instrument should cover United Nations military personnel and civilian personnel, including staff of specialized agencies and entities having a defined legal connection with the United Nations who are employed in an operation authorized by the Security Council.

56. As for as the type of instrument required, there were three main options: a non-binding declaration, an additional protocol to the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and a new, autonomous binding instrument. The idea of elaborating a declaration was suggested by some delegations as a first step towards the development of a treaty. The rationale was that a declaration could be developed more quickly than a treaty, would be a significant gesture on the part of the international community and would help States sort out substantive issues in preparation for a binding instrument.

57. There were, however, serious reservations as to the usefulness of this approach, based on the fact that previous non-binding instruments, including resolutions adopted by the Security Council under Chapter VII of the Charter, had been ignored by those involved in attacks on United Nations personnel. Concern was also expressed that elaborating a declaration as an intermediate step would in fact unnecessarily delay the preparation of the binding instrument that was needed.

58. The idea of elaborating an additional protocol to the 1973 Convention, which had received some support during the Sixth Committee debate, was again recognized as attractive in principle and seriously considered. Ultimately, it did not commend itself to the working group for various reasons. One of them was that a new instrument would send a clearer political signal as to the importance which the international community attached to the problem. Another reason was that the 1973 Convention was not entirely acceptable to certain States and that participation in an optional protocol would be excluded for those States which were not parties to the 1973 Convention. A third reason was that the text of the 1973 Convention made it clear that its objective was to deal with a conceptually and politically different problem, namely the vulnerability of diplomatic personnel to acts of terrorism. There were also technical difficulties of a legal nature, relating to the complexities involved in reviewing the balance and structure of the Convention in an effort to expand its scope.

59. On 9 December 1993, the General Assembly decided to establish an ad hoc committee to elaborate an international convention on "the safety and security of United Nations and associated personnel, with particular reference to responsibility for attacks on them".

Annex I

CONSOLIDATED LIST* OF STAFF MEMBERS UNDER ARREST AND DETENTION OR MISSING AND WITH RESPECT TO WHOM THE UNITED NATIONS AND THE SPECIALIZED AGENCIES AND RELATED ORGANIZATIONS HAVE BEEN UNABLE TO EXERCISE FULLY THEIR RIGHT TO PROTECTION

Name	Agency	Place and Date of Incident
Mr. Abdala Daker Hayatli	UNRWA	Missing in the Syrian Arab Republic since 20 April 1980.
Mr. Izzedine Hussein Abu Khreish	UNRWA	Detained in the Syrian Arab Republic since 11 September 1980.
Mr. Mahmoud Hussein Ahmad	UNRWA	Missing in Lebanon since 22 March 1983. Reportedly detained by militias or unknown elements.
Mr. Mohammad Ali Sabbah	UNRWA	Missing in Lebanon since 22 March 1983. Reportedly detained by militias or unknown elements.
Mr. Daulat Mir	FAO	Detained on 28 August 1984 and subsequently conscripted into military service in Afghanistan.
Mr. Alec Collett	UNRWA	Detained in Lebanon by militias or unknown elements since 25 March 1985.
Mr. Mohammad Mustafa El-Hajj Ali	UNRWA	Missing in Lebanon since 28 November 1986. Reportedly detained by militias or unknown elements.
Mr. Saleem Hairan	FAO	Detained and conscripted on 27 January 1988 into military service in Afghanistan.
Mrs. Zainab Aw Jama Adan	WFP	Missing in Somalia since 4 June 1988.

* The consolidated list contains in chronological order the names of staff members who remained under detention or missing as of 30 June 1993. This list, however, is not compiled to provide information on all cases of staff members who have been arrested, detained or missing in the past or on the cases where staff members have lost their lives in the performance of official duties.

Name	Agency	Place and Date of Incident
Mr. Mohammed Omar	FAO	Detained and conscripted on 17 May 1989 into military service in Afghanistan.
Mr. Abdul Fattah	WFP	Abducted in Pakistan by unknown elements on 3 September 1989.
Mr. Ahmad Mohamed Ali	WFP	Detained in Somalia by the Somali National Security Service since 25 May 1990.
Mr. Abdel Ali Abu Ghali	UNRWA	Detained in the occupied Gaza Strip since 25 August 1990.
Mr. Abdalla Ismail Abu Shawareb	UNRWA	Detained in the occupied Gaza Strip since 6 November 1990.
Mr. Ghassan Musaed El Arabid	UNRWA	Detained in the occupied Gaza Strip since 11 August 1991.
Mr. Kassu Asgedon	WFP	Detained in Ethiopia since 4 September 1991.
Mr. Mohammad Rajab El-Sa'afin	UNRWA	Detained in the occupied Gaza Strip since 20 July 1992.
Mr. A/Fattah Ismail Fayyad	UNRWA	Detained in the occupied Gaza Strip since 22 September 1992.
Mr. Mohammed Mohammed Najib Madi	UNRWA	Detained in the occupied Gaza Strip since 15 October 1992.
Mr. Suliman Hmaid Mohd El Sofi	UNRWA	Detained in the occupied Gaza Strip since 22 November 1992.
Mr. Amin Ali El Khatib	UNRWA	Detained in the occupied Gaza Strip since 23 November 1992.
Mr. Zaher Ismail Ahmad	UNRWA	Detained in the occupied Gaza Strip since 26 January 1993.
Mr. Bassam Mohammad Musa	UNRWA	Detained in the occupied Gaza Strip since 26 January 1993.
Mr. Hasam Hassan Abu Jray	UNRWA	Detained in the occupied Gaza Strip since 14 February 1993.
Mr. Hasan Mohammad Hammad	UNRWA	Detained in the occupied West Bank since 15 February 1993.

Name	Agency	Place and Date of Incident
Mr. Yasin Musallam Abu Hatab	UNRWA	Detained in the occupied Gaza Strip since 17 February 1993.
Mr. As'ad Yousef As'ad Acad	UNRWA	Detained in the occupied Gaza Strip since 18 February 1993.
Mr. Maher Salim El Toukhi	UNRWA	Detained in the occupied Gaza Strip since 18 February 1993.
Mr. Ibrahim Mohammed Madi	UNRWA	Detained in the occupied Gaza Strip since 18 February 1993.
Mr. Suliman A/Hadi Abu Rous	UNRWA	Detained in the occupied Gaza Strip since 14 March 1993.
Mr. Sami Abdalla Abu Hmaiseh	UNRWA	Detained in the occupied Gaza Strip since 11 April 1993.
Mr. Mohammad Sameh Massad	UNRWA	Detained in the occupied West Bank since 29 April 1993.
Mr. Yousef Dawoud Shahin	UNRWA	Detained in the occupied Gaza Strip since 2 May 1993.
Mr. Ahmad Hasan Abu Houli	UNRWA	Detained in the occupied Gaza Strip since 3 May 1993.
Mr. Jaber Ali Wahdan	UNRWA	Detained in the occupied West Bank since 3 May 1993.
Mr. Abdel Hakim A/Rabbu Abu Houli	UNRWA	Detained in the occupied Gaza Strip since 6 May 1993.
Mr. Asia Salim Yousef	UNRWA	Detained in the Syrian Arab Republic since 8 May 1993.
Mr. Fawzi Mohammed Abu Armaneh	UNRWA	Detained in the occupied Gaza Strip since 11 May 1993.
Mr. Abdul Naser Fourani	UNRWA	Detained in the Syrian Arab Republic since 19 May 1993.
Mr. Suliman Ibrahim Jouda	UNRWA	Detained in the occupied Gaza Strip since 20 May 1993.
Mr. Mohammed A/Rahman Ali	UNRWA	Detained in the occupied Gaza Strip since 1 June 1993.
Mr. Mahmoud Arafat El Khawaja	UNRWA	Detained in the occupied Gaza Strip since 14 June 1993.

Name	Agency	Place and Date of Incident
Mr. Mahmoud Ghanem	UNRWA	Detained in the occupied Gaza Strip since 25 June 1993.
Mr. Andualem Zeleke	ECA	Detained in Ethiopia since 25 June 1993.
Mr. Jamal Atiya Tayeh	UNRWA	Detained in the occupied Gaza Strip since 28 June 1993.

Annex II

NEW ZEALAND: PROPOSAL FOR A DRAFT CONVENTION ON RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS PERSONNEL

Article 1

Definitions

1. "Alleged offender" means a person as to whom there is sufficient evidence to determine prima facie that that person has committed one or more of the crimes set out in article 5.

2. "Secretary-General" means the Secretary-General of the United Nations.

3. "Security Council" means the organ established pursuant to Article 7 of the Charter of the United Nations.

4. "Specialized agency" means an agency established by intergovernmental agreement as envisaged in Article 57 of the Charter of the United Nations.

5. "United Nations operation" means an operation established pursuant to a mandate approved by a resolution of the Security Council.

6. "United Nations personnel" means those persons in respect of whom this Convention applies in accordance with article 2.

Article 2

Application of Convention

This Convention shall apply in respect of:

(a) Persons deployed by the Secretary-General to participate in a United Nations operation, and includes:

(i) Military personnel;

(ii) Police personnel;

(iii) Associated civilian personnel;

(b) Persons deployed by the Secretary-General or a specialized agency or other organization or programme of the United Nations system to carry out activities in connection with a United Nations operation;

(c) Persons deployed by any other humanitarian organization or agency to carry out activities relating to a United Nations operation where such organization or agency is operating pursuant to an agreement with the Secretary-General.

Article 3

Duty to ensure the safety and security of United Nations personnel

1. States Parties shall recognize a duty to take all appropriate measures to ensure the safety and security of United Nations personnel. In particular, States Parties shall take all appropriate steps to protect United Nations personnel who are deployed in their territory from attacks or other acts of violence.

2. In circumstances where a State Party is unable to exercise jurisdiction over persons responsible for attacks on United Nations personnel deployed in their territory, it shall cooperate with other States Parties and with the Secretary-General to ensure that an alleged offender is dealt with in accordance with the provisions of this Convention.

Article 4

States to cooperate in preventing crimes against United Nations personnel

States Parties shall cooperate in the prevention of the crimes set out in article 5, particularly by:

(a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;

(b) Exchanging information and coordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

Article 5

Crimes against United Nations personnel

1. The intentional commission of:

(a) A murder, kidnapping or other attack upon the person or liberty of any United Nations personnel;

(b) A violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations personnel likely to endanger his/her person or liberty;

(c) A threat to commit any such attack;

(d) An attempt to commit any such attack;

(e) An act constituting participation as an accomplice in any such attack, which includes organizing, or directing, or inciting others to commit any such attack,

shall be made by each State Party a crime under its national law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Nothing in paragraphs 1 and 2 above shall derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of United Nations personnel.

Article 6

Establishment of jurisdiction

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 5 in the following cases:

(a) When the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the crime is committed with respect to a national of that State, if that State considers it appropriate.

2. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 5 in cases where the alleged offender is present in its territory and it does not extradite such person pursuant to article 10 to any of the States referred to in paragraph 1 above.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 7

Communication of information regarding alleged offenders

1. The State Party in which any of the crimes set out in article 5 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to the Secretary-General and, directly or through the Secretary-General, to all other States concerned all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever any of the crimes set out in article 5 has been committed against any United Nations personnel, any State Party which has information concerning the victim and the circumstances of the crime shall endeavour to

transmit it, under the conditions provided for in its national law, fully and promptly to the Secretary-General and the interested State or States.

Article 8

Measures to ensure prosecution or extradition

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution or extradition.

2. Measures taken in accordance with paragraph 1 above shall be notified without delay to the Secretary-General and, either directly or through the Secretary-General, to:

(a) The State where the crime was committed;

(b) The State or States of which the alleged offender is a national or, if such person is a stateless person, in whose territory that person permanently resides;

(c) The State or States of which the victim is a national;

(d) All other States concerned;

(e) Any relevant specialized agency or other organization, programme or agency.

3. Any alleged offender shall be entitled:

(a) To communicate without delay with the nearest appropriate representative of the State of which such person is a national or which is otherwise entitled to protect that person's rights or, if such person is a stateless person, which that person requests and is willing to protect that person's rights;

(b) To be visited by a representative of that State.

Article 9

Prosecution of alleged offenders

The State Party in whose territory the alleged offender is present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 10

Arrangements for extradition of alleged offenders

1. To the extent that the crimes set out in article 5 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 6, paragraph 1.

Article 11

Mutual assistance in criminal proceedings

1. States Parties shall afford each other the greatest measure of assistance in connection with criminal proceedings brought in respect of the crimes set out in article 5, including the supply of all evidence at their disposal necessary for the proceedings.

2. Paragraph 1 above shall not affect the obligations arising from the provisions of any other treaty, bilateral or multilateral, which governs or will govern, in whole or part, mutual assistance in criminal matters.

Article 12

Fair treatment for alleged offenders

Any person regarding whom proceedings are being carried out in connection with any of the crimes set out in article 5 shall be guaranteed fair treatment at all stages of the proceedings.

Article 13

Notification of outcome of proceedings

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General, who shall transmit the information to other States Parties.

Article 14

United Nations personnel to respect international humanitarian law

Nothing in this Convention shall be construed so as to derogate from the responsibility of United Nations personnel to respect international humanitarian law.

Article 15

Dissemination

The States Parties undertake to disseminate this Convention as widely as possible and, in particular, to include the study thereof, as well as relevant provisions of international humanitarian law, in their programmes of military instruction and to encourage the study thereof by the civilian population, so that the provisions of this Convention may become known to the armed forces and to the civilian population.

Article 16. Dispute settlement

Article 17. Signature/ratification/accession

Article 18. Entry into force

Article 19. Denunciation

Article 20. Authentic texts

Annex III

UKRAINE: DRAFT INTERNATIONAL CONVENTION ON THE STATUS AND SAFETY OF THE PERSONNEL OF THE UNITED NATIONS FORCE AND ASSOCIATED CIVILIAN PERSONNEL: PROPOSAL SUBMITTED BY UKRAINE

PREAMBLE

The States Parties,

Reiterating their earnest wish to see peace prevail among peoples,

Recalling that every State has the duty, in conformity with the relevant norms of international law, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes and principles of the Charter of the United Nations,

Acknowledging the vital importance of the involvement of the personnel of the United Nations force and associated civilian personnel in preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian operations,

Conscious of the existing arrangements for ensuring the safety of the personnel of the United Nations force and associated civilian personnel, as well as of the steps taken by the principal organs of the United Nations in this regard,

Convinced that deployment of the United Nations peace-keeping operations is an integral component of the United Nations peace efforts which enhance the effectiveness of the United Nations in the maintenance of international peace and security,

Bearing in mind that increasing activities of the United Nations in the field of preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian operations require provision of extensive human, financial, and material resources for the Organization,

Appealing to all States in whose territory the personnel of the United Nations force and associated civilian personnel are deployed in connection with the mandate adopted by the United Nations Security Council, and to all parties concerned, to provide comprehensive support aimed at facilitating the conduct of an operation, and urging them to respect and guarantee the safety of those personnel,

Stressing the need for adequate protection of the personnel participating in preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian operations in accordance with the norms and principles of international law,

Have agreed on the following:

PART I

GENERAL PROVISIONS

Article 1

General principles and scope

1. The States Parties undertake to respect and to ensure the respect for the present Convention in all circumstances.

2. In cases not covered by the present Convention or by other international agreements, the personnel of the United Nations force and associated civilian personnel remain under the protection of universally recognized principles of international law, in particular, norms of international humanitarian law.

3. The present Convention shall apply in the cases of settlement of armed conflicts between two or among several States Parties which threaten international peace and security and in which the personnel of the United Nations force and associated civilian personnel are involved in accordance with the decision of the Security Council.

4. The present Convention shall also apply to a non-international conflict within a State Party when such conflict runs the risk of developing into an international one, or when representative authorities of a State Party have requested the United Nations Security Council to deploy in its territory the United Nations peace-keeping operation.

5. Unless it is explicitly stipulated otherwise, the provisions of the present Convention shall apply exclusively to the area where the United Nations peace-keeping operation is deployed.

6. If one of the parties to a conflict is not a State Party to the present Convention, the States Parties shall nevertheless remain bound by its provisions in their relations.

Article 2

Definitions

For the purposes of the present Convention:

(a) "United Nations peace-keeping operation" means the deployment of a United Nations presence in the area of conflict in accordance with the mandate approved by a resolution of the Security Council, aimed, inter alia, at prevention, maintaining or restoring international peace and security, exclusively in the common interest of the international community, disengaging the conflicting parties, creating conditions for the peaceful settlement of a conflict, monitoring a cease-fire and compliance with peace agreements, as well as for rendering humanitarian assistance to the civilian population in the area of deployment it being understood that the United Nations peace-keeping operation shall be conducted on the request or with the consent of the parties concerned;

(b) "Personnel of the United Nations force" means a contingent of the United Nations personnel, participating in the United Nations peace-keeping operation, including military personnel and/or military observers contributed by Member States on the request of the Secretary-General and with the approval of the Security Council of the United Nations for carrying out a mandate approved by the Security Council for a specific operation, as well as civilian police personnel and civilian political officers, human rights monitors, electoral officials, refugee and humanitarian aid specialists, etc., provided by Member States;

(c) "Associated civilian personnel" means all personnel deployed or stationed in an area of a peace-keeping operation by a specialized agency or other organization or programme of the United Nations system to carry out activities in connection with the performance of a mandate approved by the Security Council, as well as all persons deployed or stationed in an area by any other humanitarian organization or agency to carry out activities pursuant to an arrangement with the United Nations relating to the performance of a mandate approved by a resolution of the Security Council.

Article 3

Identification

The United Nations shall take appropriate measures to make the personnel of the United Nations force and associated civilian personnel as well as buildings and equipment identifiable when they are exclusively destined for carrying out a mandate approved by the Security Council, namely:

(a) The United Nations flag shall be hoisted in the headquarters, camps or other premises, areas of stationing of the personnel of the United Nations force and associated civilian personnel in the country where the United Nations peace-keeping operation is conducted;

(b) Ground-, water- and air-transportation vehicles of the personnel of the United Nations force and associated civilian personnel shall be marked by the distinctive United Nations emblem and reported to the Government of a State in whose territory the United Nations peace-keeping operation is conducted;

(c) Personnel of the United Nations force and associated civilian personnel shall at all times carry the distinctive emblem on its uniform, which also shall be reported to the Government of a State in whose territory the United Nations peace-keeping operation is conducted. In cases when part of the territory is occupied, such information shall be reported to the administration exercising actual authority over that part of the territory;

(d) Military personnel and civilian police personnel when executing official duties shall wear national military or police uniform;

(e) Each State Party, as well as a party to a conflict, shall endeavour to adopt and implement methods and procedures which will make it possible to identify the personnel of the United Nations force and associated civilian personnel and transports which use the distinctive emblem;

(f) In an area where fighting is taking place or is likely to take place, the personnel of the United Nations force and associated civilian personnel should be identified by the distinctive emblem and an identity card certifying their international status.

PART II

STATUS OF THE PERSONNEL OF THE UNITED NATIONS FORCE AND ASSOCIATED CIVILIAN PERSONNEL

Article 4

Respect for international character

The Government of a State Party in whose territory the United Nations peace-keeping operation is conducted or the administration exercising actual authority over the territory in question and/or the area of the operation shall respect the exclusive international character of the personnel of the United Nations force and associated civilian personnel.

Article 5

Privileges and immunities of the personnel of the United Nations force and associated civilian personnel

1. Personnel of the United Nations force and associated civilian personnel shall have the right of unimpeded entry and exit to and from a State in whose territory the United Nations peace-keeping operation is conducted. For the purposes of such entry or exit, personnel of the United Nations force and associated civilian personnel require only an identity document issued by the Special Representative/Force Commander. Excepted shall be the cases of initial entry when an identity document issued by the competent authorities of a State Party shall be accepted.

2. Existing national passport and visa regulations, as well as immigration formalities, shall not be applied. Nor shall any provisions governing the stay in the country of foreign nationals, including registration, be applied. Those personnel, however, shall not be considered as having the right of permanent residence in such country.

3. Personnel of the United Nations force and associated civilian personnel in fulfilling their duties shall be accorded the following privileges and immunities:

(a) Immunity from personal arrest or detention, as well as from any kind of legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) Exemption from taxes on salaries and remunerations received from the United Nations or from their home Government, as well as, exemption from all other direct taxes, except municipal ones for rendered services;

(c) Exemption from custom duties and charges for all private correspondence, money orders, printed materials and parcels sent or received by the personnel of the United Nations force and associated civilian personnel;

(d) Other privileges and immunities to be determined in the status-of-forces agreement on the basis of the provisions of article V of the Convention on the Privileges and Immunities of the United Nations of 1946.

Article 6

The right to carry arms

1. Military personnel and civilian police personnel shall have the right to have and carry arms and to use them in self-defence when fulfilling their functions mandated to them by the United Nations Security Council.

2. The type of arms and rules of engagement shall be determined by a specific provision in a mandate adopted for each United Nations peace-keeping operation by a resolution of the Security Council.

Article 7

Respect for the laws and regulations of the host country

1. Without prejudice to their privileges and immunities and the fulfilment of their duties, the personnel of the United Nations force and associated civilian personnel shall respect the laws and regulations of a State Party in whose territory the United Nations peace-keeping operation is conducted.

2. In case a crime is committed by a member of the personnel of the United Nations force and associated civilian personnel, the jurisdiction of the State of permanent citizenship shall apply.

PART III

OBLIGATIONS OF STATES PARTIES AND REPRESSION OF BREACHES OF THE CONVENTION

Article 8

Obligations of a State Party where the peace-keeping operation is conducted

1. A State Party in whose territory the United Nations peace-keeping operation is conducted undertakes to provide comprehensive support to the personnel of the United Nations force and associated civilian personnel in fulfilling their functions and to take all necessary measures to ensure respect for and guarantee the safety and security of those personnel.

2. The Government of a State Party in whose territory the United Nations peace-keeping operation is conducted shall guarantee the criminal prosecution of persons initiating hostile acts against the personnel of the United Nations

force and associated civilian personnel. That Government shall act promptly and efficiently to deter, prosecute and punish all those responsible for attacks and other acts of violence against such personnel.

3. In the situation where the Government of a State Party in whose territory the United Nations peace-keeping operation is conducted is unable to exercise jurisdiction in order to ensure the safety and security of such personnel, it will fully cooperate with other States Parties in order to act collectively to ensure that persons responsible for carrying out authorizing or acquiescing in attacks and other acts of violence against the personnel of the United Nations force and associated civilian personnel are held responsible for international offences.

Article 9

Cooperation

In a situation of serious violations of the present Convention, the States Parties undertake to act, jointly or individually, in cooperation with the United Nations Security Council and in conformity with the Charter of the United Nations, including Chapter VII thereof.

Article 10

Breaches of the Convention

Attacks and other acts of violence, whether actual or threatened, against the personnel of the United Nations force and associated civilian personnel, including kidnapping, obstruction or detention of persons, shall be considered as criminal offences and will entail international responsibility in accordance with the present Convention and relevant norms of international law.

Article 11

Responsibility

A party to a conflict shall be responsible for the breaches of the present Convention committed by persons forming part of its armed forces, as well as by civilians under its control or jurisdiction.

Article 12

Right of self-defence of military personnel of the United Nations force

In case of grave violations of the provisions of the present Convention by armed forces or armed groups of a party to a conflict, military personnel of the United Nations force shall have the right to act in self-defence in accordance with the rules of engagement adopted for each peace-keeping operation, which may be widened or specified on the basis of a special decision taken by the United Nations Security Council.

Article 13

Recall of the United Nations personnel

If cases stipulated in article 10 continue to occur, a State Party whose personnel are engaged in the United Nations peace-keeping operation shall have the right to recall that personnel as not adequately protected.

Article 14

Compensation

In case of death, wounding or other injury of a member of the personnel of the United Nations force or associated civilian personnel or damage of equipment and technical means of the United Nations peace-keeping force, the United Nations shall pay compensation to the beneficiary upon the request of a State whose national is killed or injured or whose property and equipment are damaged. The amount of compensation shall be determined by the United Nations on the basis of a unified approach.

PART IV

FINAL PROVISIONS

Article 15

Signature

The present Convention shall be open for signature by all States.

Article 16

Ratification

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations, depositary of the present Convention.

Article 17

Accession

The present Convention shall be open for accession by any State. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 18

Entry into force

The present Convention shall enter into force ___ days after ___ instruments of ratification or accession have been deposited with the Secretary-General of the United Nations.

Article 19

Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations.

Article 20

Authentic texts

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.